

Short Title: Partition/Recodify Notice Provision.

A BILL TO BE ENTITLED

AN ACT TO RECODIFY A NOTICE PROVISION FOR REAL PROPERTY PARTITION  
PROCEEDINGS.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 46-2.1(b) is recodified as G.S. 46-3(b).

**SECTION 1.(b)** G.S. 46-3, as amended by subsection (a) of this section, reads as  
rewritten:

**"§ 46-3. Petition by cotenant or personal representative of ~~cotenant~~cotenant; notice.**

(a) One or more persons claiming real estate as joint tenants or tenants in common or  
the personal representative of a decedent joint tenant, or tenant in common, when sale of ~~such~~  
the decedent's real property to make assets is alleged and shown as required by G.S. 28A-17-3,  
may have partition by petition to the superior court.

(b) Written notice shall be included in the petition in a manner reasonably calculated to  
make the respondent aware of the following:

(1) That the respondent has the right to seek the advice of an attorney and that  
free legal services may be available to the respondent by contacting Legal  
Aid of North Carolina or other legal services organizations.

(2) That pursuant to G.S. 6-21 the court has the authority, in its discretion, to  
order reasonable attorneys' fees to be paid as a part of the costs of the  
proceeding."

**SECTION 2.** This act is effective when it becomes law.

*[Staff Note: The Real Property Partitions/Elective Life Estate draft adds the following  
language to G.S. 46-2.1 as a new subsection (c):*

(c) A petitioner is not required to serve or join spouses of cotenants of the real property.  
The surviving spouse of a deceased cotenant is not entitled to a life estate in real property under

1 G.S. 29-30 if the cotenant's interest in the real property was transferred to another person before  
2 the cotenant's death in a partition proceeding initiated under this Chapter.

3 *If the Commission approves this Partition/Recodify Notice Provision draft, staff proposes*  
4 *that the language above instead be added as a new subsection (c) to G.S. 46-3 and that the two*  
5 *drafts be combined.]*